

REMARKS

The Advisory Action mailed on September 19, 2006 stated that the proposed amendments to the claims would require further consideration and/or search. The Applicant is submitting a request for continuation of examination with this paper. Further consideration and/or search is appropriate.

The Advisory Action mailed on September 19, 2006 states that the Hak reference may not be overcome by the declaration of the Applicant under 37 C.F.R. 1.131 because Exhibit A of that declaration "fails to support the planar protective layer." The planarity of the "protective layer" is implicit in Exhibit A. Exhibit A states that the "self-masking process" described in that paper involves the steps of "coating the surface of the wafer with a thick photoresist layer (5-10 microns)" and "dry-etching the resist layer to a thickness of ~0.5 microns (to reveal the tops of the defect structures but protecting the remainder of the semiconductor surface)." It is submitted that the photo-resist layer so described is inherently planar because it is initially thick. Defects therefore will not be able to affect the surface of the photoresist layer by creating rises as in the Fujisada, et al. reference. The step of dry-etching the resist layer to a thickness of ~0.5 microns to reveal the tops of the defects implies a planar layer before the step of etching because the resist layer will not have a consistent thickness after etching unless it initially has a planar surface. The defects will not be consistently exposed unless the photo-resist layer is evenly thinned from a thick planar layer to a thin one.

The Advisory Action mailed on September 19, 2006 states that the claimed invention (assuming entry of amendments) would have been obvious over Fujisada, et al. in view of Moshrefzadeh, et al. since the claimed shape of the planar protective layer was a "matter design choice because of absence that the planar protective layer would yield unexpected result. Moreover, using the planar protective layer to uniformly cover defects in process removing defect has been known in the art (see Moshrefzadeh, et al. as evidence)." The Examiner is referred to pages 10 and 11 of the amendment and reply pursuant to 37 C.F.R. § 1.116 submitted on September 5, 2006, which addresses this issue and explains that the claimed planar shape for the planar protective layer has a purpose and is not a mere design choice as in the case of *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would




have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.). It is also shown that Moshrefzadeh, et al. does not teach or suggest a process for removal of defects.

**Conclusion**

In view of the above, the Applicant submits that the application is now in condition for allowance and respectfully urges the Examiner to pass this case to issue. The Examiner is respectfully invited to telephone the undersigned attorney as needed in order to advance the examination of this application.

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The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

<p>I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 3, 2006.</p>	<p>Respectfully submitted,</p>
<p><u>Lonnie Louie</u> (Name of Person Transmitting)</p>	
<p>  (Signature)</p>	<p>R. Dabney Eastham Attorney for Applicants Reg. No. 31,247 LADAS &amp; PARRY LLP 5670 Wilshire Boulevard, Suite 2100 Los Angeles, California 90036 (323) 934-2300 voice (323) 934-0202 facsimile <a href="mailto:reastham@ladas.com">reastham@ladas.com</a></p>
<p>October 3, 2006 (Date)</p>	